BILL NO. S-83-08-37

SPECIAL ORDINANCE NO. S-177-83

ORDINANCE AUTHORIZING
THE CITY OF FORT WAYNE TO ISSUE
ITS "ECONOMIC DEVELOPMENT REVENUE BOND
(ANTHONY A. PETRARCA PROJECT)" AND
APPROVING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, the Fort Wayne Economic Development Commission conducted a public hearing on August 29, 1983, and also adopted a resolution on August 29, 1983, which Resolution has been transmitted hereto, finding that the financing of certain economic development facilities of Anthony A. Petrarca complies with the purposes and provisions of I.C. 36-7-12 and that such financing will be of benefit to the health and welfare of the City of Fort Wayne and its citizens; and

WHEREAS, the Fort Wayne Economic Development Commission has heretofore approved and recommended the adoption of this form of Ordinance by this Common Council and has approved the substantially final forms of and has transmitted for approval by the Common Council the Mortgage and Security Agreement, Note, Loan Agreement, Bond Purchase Agreement, Leases and Collateral Assignment of Rents and Leases; now therefore,

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA THAT:

SECTION 1. The economic development facility ("Project") consists of the construction and acquisition of a one-story retail sales building of approximately 47,707 square feet, located on an approximate 3.9 acre tract of land, located on Coldwater Road at U.S. 30, Fort Wayne, Indiana.

SECTION 2. It is hereby found that the financing of the economic development facilities referred to in the Loan Agreement and the Bond Purchase Agreement approved by the Fort Wayne Economic Commission and presented to this Common Council, the issuance and sale of revenue bonds, the loan of the

proceeds of the revenue bonds to Anthony A. Petrarca for the construction of the Project, the payment of the revenue bonds by the note payments of Anthony A. Petrarca under the Loan Agreement and Note, the leasing of the economic development facilities to various lessees under the Leases, and the securing of said bonds by the mortgaging of such facilities under the Mortgage and Security Agreement complies with the purposes and provisions of I.C. 36-7-12 and will be of benefit to the health and welfare of the City of Fort Wayne and its citizens.

SECTION 3. The substantially final forms of the Mortgage and Security Agreement, Note, Loan Agreement and Bond Purchase Agreement approved by the Fort Wayne Economic Development Commission are hereby approved (herein collectively referred to as the "Financing Agreement" as defined to in I.C. 36-7-12, and the substantially final forms of the Leases and the Collateral Assignment of Rents and Leases approved by the Fort Wayne Economic Development Commission are hereby approved, and all such documents shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk. In accordance with the provisions of I.C. 36-1-5-4, two (2) copies of all such documents are on file in the office of the Clerk for public inspection.

SECTION 4. The City of Fort Wayne shall issue its Economic Development Revenue Bond (Anthony A. Petrarca Project), in the total principal amount not exceeding Two Million Six Hundred Thousand Dollars ($2,600,000) and maturing not later than twenty-five years from the date of the first principal payment and which in no event may exceed thirty (30) years, for the purpose of procuring funds to pay the costs of acquisition and construction of the Project as more particularly set out in the Loan Agreement incorporated herein by reference, which bonds will be payable as to principal, premium, if any, and interest

from the note payments made by Anthony A. Petrarca under the Loan Agreement and Note or as otherwise provided in the Bond Purchase Agreement. The bond shall be issued in fully registered form, shall be issued in denomination of $2,600,000, and shall be redeemed as provided for therein. Payments of principal and interest are payable in lawful money of the United States of America at the principal office of the Bondholder, or at such other place as the Bondholder may designate in writing, as provided in the Bonds. The bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the City of Fort Wayne, nor are the bonds payable in any manner from revenues raised by taxation.

SECTION 5. The Mayor and Clerk are authorized and directed to sell such bond to the Bondholder at a rate of interest on the bond not to exceed 10 3/4% (except in the event interest on the bond becomes taxable, in which event the interest rate on the bond shall increase to 2% plus the prime rate announced by Chase Manhattan Bank, which in any event shall not exceed 30%), and at a price not less than 100% of the principal amount thereof.

SECTION 6. The Mayor and Clerk are authorized and directed to execute, attest, affix or imprint by any means the City seal to the documents constituting the Financing Agreement approved herein on behalf of the City of Fort Wayne and any other document which may be necessary or desirable to consummate the transaction, including the bonds authorized herein. The Mayor and Clerk are hereby expressly authorized to approve any modifications or additions to the documents constituting the Financing Agreement which take place after the date of this Ordinance with the review and advice of the City Attorney; it being the express understanding of this Common Council that

said Financing Agreement is in substantially final form as of the date of this Ordinance. The approval of said modifications or additions shall be conclusively evidenced by the execution and attestation thereof and the affixing of the seal thereto to the imprinting of the seal thereon; provided, however, that no such modification or addition shall change the maximum principal amount of, interest rate on or term of the bond as approved by the Common Council by this Ordinance without further consideration by the Common Council. The signatures of the Mayor and Clerk on the bond may be either manual or facsimile signatures. The Clerk is authorized to arrange for delivery of such bonds to the Bondholder named in the Bond Purchase Agreement. The Mayor and Clerk shall execute and the Clerk shall deliver the bond to the Bondholder within ninety days of the adoption of this ordinance. The bond shall be dated as of the date of delivery thereof.

SECTION 7. The provisions of this Ordinance, the Loan Agreement and Bond Purchase Agreement shall constitute a contract binding between the City of Fort Wayne and the holders of the Economic Development Revenue Bond (Anthony A. Petrarca Project), and after the issuance of said bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as any of said bond or the interest thereon remains unpaid.

SECTION 8. This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

Mark C. Giaquinta
COUNCILMAN

APPROVED AS TO FORM AND LEGALITY.

John J. Wernet, Attorney for the
Fort Wayne Economic Development Commission
Dated this 22d day of August, 1983.

Read the first time in full and on motion by Gia Quinta, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19___, at _____ o'clock ___.M.,E.S.T.

DATE: 8-23-83 Sandra E. Kennedy
CITY CLERK

Read the third time in full and on motion by Gia Quinta, seconded by Stier, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	9				
BRADBURY	✓				
BURNS	✓				
EISBART	✓				
GiaQUINTA	✓				
SCHMIDT	✓				
SCHOMBURG	✓				
SCRUGGS	✓				
STIER	✓				
TALARICO	✓				

DATE: 8-29-83. Sandra E. Kennedy
- CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ZONING MAP~~) (~~GENERAL~~) (~~ANNEXATION~~) (SPECIAL) (~~APPROPRIATION~~) ORDINANCE (~~RESOLUTION~~) NO. S-177-83 on the 29th day of August, 19 83.

ATTEST: (SEAL)

Sandra E. Kennedy
CITY CLERK

Ray A. Eisbart
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 30th day of August, 19 83, at the hour of 10:30 o'clock A.M.,E.S.T.

Sandra E. Kennedy
CITY CLERK

Approved and signed by me this 30th day of August 19 83, at the hour of 11:30 o'clock A.M.,E.S.T.

[signature]
WIN MOSES, JR. - MAYOR

BILL NO. S-83-08-37

REPORT OF THE COMMITTEE ON FINANCE

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS REFERRED AN ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE TO ISSUE ITS "ECONOMIC DEVELOPMENT REVENUE BOND (ANTHONY A. PETRARCA PROJECT)" AND APPROVING OTHER ACTIONS IN RESPECT THERETO

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

MARK E. GiaQUINTA, CHAIRMAN — Mark E. GiaQuinta

JAMES S. STIER, VICE CHAIRMAN — Jim

JANET G. BRADBURY — Janet G. Bradbury

SAMUEL J. TALARICO — Samuel J. Talarico

DONALD J. SCHMIDT — D J Schmidt

Concurred in 8-29- S. Kennedy

Admn. Appr. _____

DIGEST SHEET

S-83-08-37

TITLE OF ORDINANCE Special

DEPARTMENT REQUESTING ORDINANCE Economic Development Commission

SYNOPSIS OF ORDINANCE An Ordinance authorizing the City of Fort Wayne to issue its Economic Development Revenue Bond (Anthony A. Petrarca Project) and approval of final financing documents. An Inducement Resolution for this Project was previously adopted by City Council.

EFFECT OF PASSAGE Permanent financing of the facilities.

EFFECT OF NON-PASSAGE None of the above.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) None.

ASSIGNED TO COMMITTEE (PRESIDENT) _____